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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,503	06/29/2004	Michael Haacke	De 020001	4391

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

PATEL, VIP

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/500,503	Applicant(s) HAACKE, MICHAEL	
	Examiner Vip Patel	Art Unit 2879	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0604</u> . | 6) <input type="checkbox"/> Other: ____  |

### **Claim Rejections - 35 USC § 112**

Claims 1-12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claim 1, applicant claims a closed discharge vessel "surrounded" by a wall of transparent material. It is not clear as to how the closed discharge vessel is "surrounded" by a wall of transparent material. From reading the specification and viewing the drawing, it seems that a discharge vessel is made of a wall of transparent material and not surrounded by it. In line 6 of claim 1, "at least one electrode" should be corrected to ---at least one of the two electrodes" in order to have proper antecedent basis. In line 8 of claim 1, applicant's use of terminology "and/or" renders the claim vague and indefinite since it is not clear if the applicant is intending to claim both limitations or just one limitation. In line 4 of claim 9, "the gas filling" lacks antecedent basis.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by Westemeyer et al (EP 572068).

Regarding claim 1, Westemeyer discloses a discharge lamp (see figure 2-3) comprising a closed discharge vessel (1') made of a wall of transparent material, and two electrodes (not labeled but seen in figures) having head and shaft parts (6 and 4 having different diameters). Note, the shaft part is "enclosed" over its entire length by the material forming the wall. The head part consisting a first and longer second portion

(any arbitrarily selected two sections of the head part) are also "enclosed" by the material forming the wall. The second portion of the head part projects into the interior of the discharge vessel.

As per claims 2-3, the arbitrarily selected lengths for the first and second portions (any desired portions obtained from drawing of a line through the head part) in are specific lengths claimed.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westemeyer et al (EP 572068).

Westemeyer discloses all the limitations of claims 4-6 except the head part and shaft part having same diameter (i.e., claim 4) and specific diameters as in claims 5-6 . However, in claim 1, applicant claims the head part and shaft part have different diameter. These evidences that diameters, same or different, for head and shaft part are not critical to an alleged invention and therefore a matter of design choice of an artisan.

As to claims 7-12, the limitations of claims 7-12 are not deemed patentable since the applicant's disclosure fails to show such limitations to solve any problems or to yield any unobvious advantage that is not within the scope of the teachings applied.

Therefore, such limitations would be a matter of design alternative.

Art Unit: 2879

### **Allowable Subject Matter**

Even though, claim 1 is rejected under the prior art, applicant may rewrite claim 1 to include subject matter specifically shown in figure 3, namely, ---entire electrode shaft and first part of electrode head buried and sealed within the material forming wall in combination with all the limitations of claim 1--- which is not taught by the prior art of record.

### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vip Patel whose telephone number is (571) 272-2458. The examiner can normally be reached on Monday-Thursday. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIP PATEL  
PRIMARY EXAMINER  
ART UNIT 2879